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1   RECORD OF ORAL HEARING

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3   UNITED STATES PATENT AND TRADEMARK OFFICE

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6   BEFORE THE BOARD OF PATENT APPEALS

7   AND INTERFERENCES

8   _____

9

10   *Ex Parte* HENRY L. STERCHI, JEFF KALLES,

11   SHIGERU MIYAMOTO, DENIS DYACK, and CAREY MURRAY

12   _____

13

14   Appeal 2009-003333

15   Application 10/078,526

16   Technology Center 2600

17   _____

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19   Oral Hearing Held: September 22, 2009

20   _____

21

22 Before ROBERT E. NAPPI, MARC S. HOFF, and THOMAS S. HAHN,

23 *Administrative Patent Judges.*

24

25 ON BEHALF OF THE APPELLANTS:

26

27   LEO BOUTSIKARIS, ESQUIRE

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32

33   The above-entitled matter came on for hearing Tuesday,

34 September 22, 2009, commencing at 9:35 a.m., at the U.S. Patent and

35 Trademark Office, 600 Dulany Street, Alexandria, Virginia, before Cynthea

36 Sydnor-Thomas, Notary Public.

1	PROCEEDINGS
2	THE USHER: Calendar No. 72. Mr. Boutsikaris?
3	JUDGE NAPPI: Good morning, Mr. --
4	MR. BOUTSIKARIS: Good morning.
5	JUDGE NAPPI: Pardon me. I'm going to probably mispronounce
6	your -- Boutsikaris?
7	MR. BOUTSIKARIS: Boutsikaris.
8	JUDGE NAPPI: Boutsikaris.
9	MR. BOUTSIKARIS: Yes.
10	JUDGE NAPPI: If you have a copy of your business card, if you
11	could give to our stenographer so --
12	MR. BOUTSIKARIS: Oh, sure. Yes, yes.
13	JUDGE NAPPI: She's -- to make sure she gets it spelled correctly on
14	the record.
15	MR. BOUTSIKARIS: Of course.
16	THE REPORTER: Thank you, sir.
17	MR. BOUTSIKARIS: Thank you.
18	JUDGE NAPPI: Twenty minutes. You may begin.
19	MR. BOUTSIKARIS: Okay. Problems with this board.
20	JUDGE NAPPI: Are those just the figures from --
21	MR. BOUTSIKARIS: Yes, yes. Okay. Good morning. My name is
22	Leo Boutsikaris, and I represent my client in this oral hearing, this appeal
23	hearing. Our position is that the Final Rejection by the Patent Office is
24	incorrect for the following reasons. Very briefly explain our invention
25	showing these figures. The claimed method involves animating a user-
26	controlled character in a three-dimensional environment with a three-

1   dimensional game space so that the animated character will have a certain

2   reaction when it comes close to a tagged element. More specifically, in one

3   embodiment, the three-dimensional scene is a corridor in which a game card

4   is working -- tags are associated with respective objects. For example, a tag

5   T-1 is associated with this painting, and tag T-2 is associated with this

6   candle. They activate -- in the sense that when the character is walking

7   down the corridor, it comes closer to a tag. Then the action is caused on this

8   control -- on this character. For example, it turns its head to face the

9   painting. Moreover, when the character is close to tag T-2, and the tag T-2

10   becomes active, for example, when the candle flares up here, then the

11   character also looks at the second tag T-2. This happens because the second

12   tag has higher priority than the first tag. Once the torch of the candle stops

13   flaring and returns to normal candle, the second tag becomes inactive, and

14   the character again turns its attention to the first tag which is the only active

15   tag. When the character moves away from the tag, from the painting, then it

16   resumes normal facing forward. Therefore, according to the claimed method

17   for the user-controlled character it's in proximity with the tag, the system

18   force a dynamic animation to both the user-controlled character, in this case

19   turning its head, as well as to the object associated with the tag, in this case

20   the candle can flare up.

21   The Examiner used a combination of two references, Ventrella, in

22   view of Bickmore to reject the claims. Ventrella is related to a method for

23   creating and customizing a user-controlled character in a computer game.

24   The character or avatar is associated with a set of values or genes, each one

25   which represents a different attitude of the avatar. These genes may affect

26   bodily features, for example, the shape of the face, the motion of the avatar

1   or may represent a certain behavior of the avatar. The genes may be selected

2   randomly or may be customized by the player. A non-embodiment gene

3   representing alertness can be associated with the avatar so that, for example,

4   the head of the avatar will turn toward the point of interest in the -- for

5   example, a flag there. According to Ventrella, the avatar's head orientation

6   start adapting itself so that it's aiming at the bird as it flies by. The

7   Examiner has identified a stimulus measured in Ventrella. For example, the

8   bird that causes the turn of the avatar's head has the claim tag.

9   Moreover, the second reference Bickmore -- used for the teaching of

10   embedding -- formation into a tag. Bickmore is selected to creating

11   electronic documents, where an avatar is used to annotate the document.

12   Then a document reader reads a document and interacts with the avatar to

13   gain some -- information about the document.

14   So first, the Examiner doesn't identify any teaching -- in the prior art

15   for the limitation that when the user-controlled character is within a tag,

16   within -- proximity of the tag, the animation to the tagged object itself is

17   modified. Now even if Ventrella teaches using a tag to animate an avatar,

18   for example, turn its head to a flying bird, Ventrella does not teach any using

19   the same tag to animate the object that's associated with the tag. For

20   example, according to Ventrella, an avatar might stare at the bird or turn its

21   head to follow the flight of a bird. Assume that the bird is a tagged object.

22   Ventrella simply does not teach or suggest doing anything to the bird itself.

23   In contrast, as the figures show in the claimed method, both a user-

24   controlled character, the person walking out on the corridor, and the object

25   associated with the tag, for example, the -- here are modified -- the tag

26   formation. Now Bickmore fails to cure this deficiency of Ventrella. The

1   Examiner's Answer has not identified where in Bickmore such a teaching or

2   suggestion might be found and provides no reason why this limitation would

3   be obvious other than -- on the two references.

4   JUDGE HOFF: Mr. Boutsikaris?

5   MR. BOUTSIKARIS: Yes.

6   JUDGE HOFF: The reference to paragraph 58 of Bickmore?

7   MR. BOUTSIKARIS: Yes.

8   JUDGE HOFF: Towards the bottom of paragraph 58, there is

9   disclosure of a primitive called click object.

10   MR. BOUTSIKARIS: Yes.

11   JUDGE HOFF: It says it performs the same actions as if a document

12 reader had clicked on the specified object with the mouse. That may seem to

13 correspond to the object reacting to proximity of an avatar.

14   MR. BOUTSIKARIS: Well, I think Bickmore --

15   JUDGE HOFF: What do you think of that?

16   MR. BOUTSIKARIS: -- in Bickmore the document reader

17 incorporates the avatar. That explains -- that says something about the

18 document itself, and the way that a user brings up the -- by dragging the

19 avatar to a location there in the document or in a clicking of the avatar.

20   JUDGE HOFF: Yes.

21   MR. BOUTSIKARIS: Okay, so but again, this nothing says that --

22 and was it associated with an object, with the tagged object itself is --

23 animated. Just by clicking on it to bring out the action of the avatar does not

24 we think mean that there is something that's animation of the object.

25   JUDGE HOFF: Well, the examples given in paragraph, and they all

26 have to give what an avatar would do, move toward an object, point toward

1   an object or click on the object. Are you saying that it's your opinion that

2   the clicking on the object does not, does not -- the claim language of the

3   animation?

4   MR. BOUTSIKARIS: Animation -- yes, that's right. Yes, yes, that's

5   our position, and again, I wouldn't think Bickmore teaches or suggests

6   modifying the tagged object. And actually the notion of changing the texts -

7   - or other tagged objects in the document is -- Bickmore. Bickmore

8   doesn't -- it's only related to doing something to the avatar itself like moving

9   around, talking, moving, so that explains something about the document. So

10   I believe that's a difference that Bickmore does not teach that doing

11   something to the tagged object itself.

12   Now finally we believe that the differences between the two

13   references are such that while it won't be obvious to recombine the two,

14   Ventrella has directed their character in the three-dimensional virtual world,

15   whereas Bickmore is directed to a flat, two-dimensional document. For

16   example -- one of ordinary skill in the art would not have looked to a method

17   of conveying -- information -- flat, two-dimensional object which is taught

18   by Bickmore when trying to build an avatar in a three-dimensional

19   environment which is taught by Ventrella. Also, the objects of the avatars in

20   the two references are different, fundamentally different. Whereas the user

21   in Ventrella moves through a virtual environment by using the avatar, the

22   avatar in Bickmore moves the user through a document by moving to

23   different locations in the document.

24   And finally, the environments used in -- are significantly different.

25   Words, paragraphs and the like are taught in Bickmore whereas objects like

26   cats, forests, birds are taught in Ventrella. So one of ordinary skill in the art

1   would not consider techniques associated with a webpage when building a

2   three-dimensional game involving avatars.

3   So again, we believe that the difference -- the limitation that is not

4   taught by the two references that when a character is close to a tag then their

5   animation agent creates an animation of the tagged object itself in addition

6   to the character.

7   JUDGE NAPPI: Any questions?

8   JUDGE HOFF: No.

9   JUDGE NAPPI: Any further questions?

10   JUDGE HAHN: I have no further questions.

11   JUDGE NAPPI: Thank you very much for your time.

12   MR. BOUTSIKARIS: Okay, thank you.

13   (Whereupon, the proceedings, at 9:48 a.m., were concluded.)